Public Servants Disclosure Protection Tribunal Canada

2012 – 2013 Estimates

Report on Plans and Priorities

The Honourable James Moore
Minister of Canadian Heritage and Official Languages

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Chairperson's Message

I am pleased to present the Public Servants Disclosure Protection Tribunal's *2012-2013 Report on Plans and Priorities*.

The past year marked a new beginning for the Tribunal, as the new Public Sector Integrity Commissioner referred the first two applications for hearings. The Tribunal has already rendered five interlocutory decisions on jurisdiction and procedure. These decisions clarified the scope of the *Public Servants Disclosure Protection Act* and the importance of the Tribunal's role in the area of reprisals. However, some grey areas still need to be clarified, such as the reimbursement of legal fees as costs or as a remedy.

As the Tribunal gains experience, it may become necessary to adapt its procedures, practices and rules to ensure cases are not only resolved fairly but as quickly and efficiently as possible. This year, the Tribunal plans to explore different ways of conducting proceedings in an informal and expeditious manner. Alternative dispute resolution methods may allow cases to be resolved more rapidly and in a more cost-effective way, while keeping legal fees down. The recently established Client Consultation Committee will make a useful contribution to discussions about alternative dispute resolution methods and help improve the Tribunal's rules and procedures.

The Tribunal and its Registry are in an excellent position to deal with the larger number of reprisal cases it expects to receive from the new Public Sector Integrity Commissioner this year. That said, the Tribunal's members are Federal Court judges and their schedules are established many months in advance. This creates an administrative challenge, particularly when the members sit as a panel. Depending on the number of cases the Tribunal receives this year and their level of complexity, it may be necessary to consider increasing the number of Tribunal members.

Over the next twelve months, the Registry will provide the best possible support to parties by continuing to offer high quality service and new posting tools and resources on its website.

The Honourable Luc Martineau
Chairperson
Public Servants Disclosure Protection Tribunal of Canada

Section I: Organizational Overview

Raison d'être and Responsibilities

The raison d'être of the Tribunal is to protect public servants who disclose wrongdoing from reprisals.

The Tribunal is one component of the wrongdoing disclosure regime introduced *in 2007* by the *Public Servants Disclosure Protection Act* (the Act). In addition to the Tribunal, chief executives, the Public Sector Integrity Commissioner and the Treasury Board have responsibilities under the Act.

The Tribunal is an independent quasi-judicial body responsible for dealing with reprisal complaints referred by the Commissioner. The Act provides for the establishment of a Registry to support the Tribunal in the conduct of its work, with an office in the National Capital Region.

Strategic Outcomes and Program Activity Architecture (PAA)

In carrying out its mandate, the Tribunal is aiming for the following strategic outcome:

Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.

The Registry supports the Tribunal in fulfilling its mandate through the Reprisal Hearings Program. This program provides for the effective management of the processes related to reprisal complaints and Tribunal hearings. Through this program, the Registry also provides legal and administrative support to the Tribunal.

Organizational Priorities

Priority	Type	Strategic outcomes and/or program activities
Continue to provide high quality service and assistance to parties.	Previously committed	Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.

Description

Why is this a priority?

The quality of services and assistance that will be provided to the parties by the Registry will assist in establishing the Tribunal's reputation, which could have an impact on the broader disclosure protection regime.

Plans for meeting the priority

- Develop new tools and resources for parties and their representatives. These tools and resources will be posted on the Tribunal's website.
- Evaluate parties' level of satisfaction with Registry services and make changes to procedures, practices and standards as needed.

Priority	Type	Strategic outcomes and/or program activities
Ensure that cases referred to the Tribunal are managed in an efficient and effective manner.	New priority	Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.

Description

Why is this a priority?

As the Tribunal gains more experience, changes to its processes, practices, policies and rules may be required to ensure that cases are managed as efficiently and effectively as possible.

Plans for meeting the priority

- Seek the views of members of the newly established Client Consultation Committee on the Tribunal's processes, practices, policies and rules and modify them as required.

Operational Priority	Type	Strategic outcomes and/or program activities
Ensure that cases referred to the Tribunal are dealt with as informally and expeditiously as possible.	New priority	Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.

Description

Why is this a priority?

The *Public Servants Disclosure Protection Act* and the Tribunal's Rules of Procedure provide that proceedings before the Tribunal should be conducted informally and expeditiously. Alternative dispute resolution processes can be speedier and less costly than litigation.

Plans for meeting the priority

- Explore the option of making alternative dispute resolution available to parties.
- Engage the Tribunal's Client Consultation Committee in a discussion of the merits of alternative dispute resolution.
- Hold a full-day session on alternative dispute resolution for Tribunal members.

Operational Priority	Type	Strategic outcomes and/or program activities
Participate in the 5-year review of the *Public Servants Disclosure Protection Act.*	Modified priority	Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.

Description

Why is this a priority?

The *Public Servants Disclosure Protection Act* calls for a review of the administration and operation of the *Act* five years after its coming into force. This review will be led by the Treasury Board Secretariat.

Plans for meeting the priority

- Identify provisions of the *Act* that are problematic or that could be clarified or improved.
- Work with other stakeholders if and when called upon.

Management Priority	Type	Strategic outcomes and/or program activities
Develop and implement an information management program.	New priority	Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.

Description

Why is this a priority?

Now that the Office of the Public Sector Integrity Commissioner has started referring cases to the Tribunal, it is imperative that the Registry manage case-related documents in accordance with relevant legislation and in ways that support the Tribunal's business.

Plans for meeting the priority

- Develop an information management plan, policies and procedures for paper and electronic case-related and departmental information.
- Ensure efficient recordkeeping practices are adopted in accordance with the Treasury Board Directive on Recordkeeping.
- Provide training to staff on the new policies and procedures.

Management Priority	Type	Strategic outcomes and/or program activities
Continue to ensure that public funds are managed with prudence and probity, and that resources are used efficiently and economically to achieve objectives.	Previously committed	Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.

Description

Why is this a priority?

The Registry is expected to support initiatives to improve efficiency and contain costs.

Plans for meeting the priority

- Manage the Registry's financial and human resources with a view to fulfilling the Tribunal's mandate and achieving its priorities in the most economical and efficient manner.

Risk Analysis

It continues to be difficult for the Registry to predict how many reprisal complaints the Tribunal will receive in the months ahead. Effectively managing human and financial resources in this type of environment is challenging. The organization needs to ensure that it has a sufficient number of employees to provide the support required by the Tribunal. However, it must guard against having too many employees to avoid wasting talent as well as public funds. Fixed-term employment and assignment opportunities can provide the flexibility the Registry needs to strike the right balance between these two competing objectives. The negotiation of memoranda of understanding with other administrative tribunals can also help the Registry meet its human resources needs.

The Tribunal is subject to the application of the *Official Languages Act* and its members must be able to hear cases in the parties' official language without using an interpreter. The three members of the Tribunal, all bilingual, already have a very heavy workload because they are full-time Federal Court judges. Moreover, over the past few years, many bilingual Federal Court judges have retired, resigned or become supernumerary. Moreover, the Federal Court judges' work schedule is established a year in advance for cases that require several days of hearings. Because the Federal Court is a national trial court, its judges are required to travel across Canada to hear cases. As a result, it can be difficult to make changes to the Chairperson's and Tribunal members' assignment schedules in the time required for the Tribunal to meet its objective of rendering a decision on merit in the 250 calendar days following the start of a case. This problem is more apparent when the three Tribunal members sit as a panel, namely in more complex cases.

Planning Summary

Financial Resources (in thousands of dollars)

2012–13	2013–14	2014–15
1,834	1,834	1,834

Human Resources (Full-Time Equivalent—FTE)

2012–13	2013–14	2014–15
12	12	12

Strategic Outcome: Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.

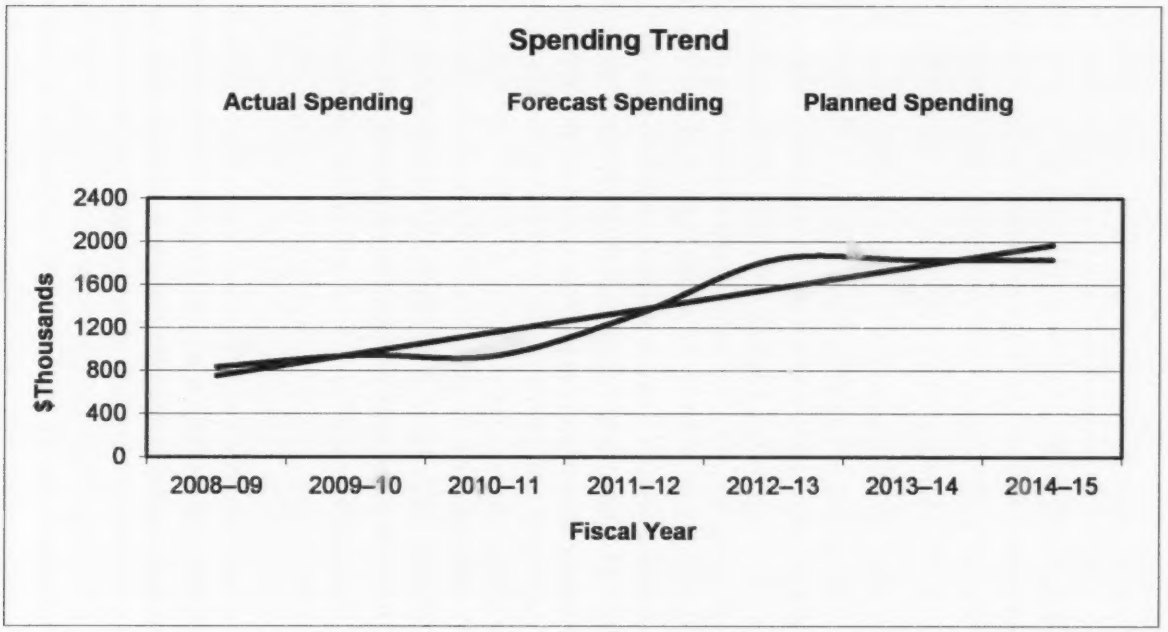
Performance Indicators	Targets
Number of decisions or orders issued within 250 calendar days from the start of a proceeding.	90% of proceedings are completed within 250 calendar days
Degree of client satisfaction with respect to services offered by the Registry	80% of clients are satisfied with services offered by the Registry

Planning Summary Table (in thousands of dollars)

Program Activity	Forecast Spending 2011–12	Planned Spending			Alignment to Government of Canada Outcomes
		2012–13	2013–14	2014–15	
Reprisal Hearings Program	1,318	1,834	1,834	1,834	Well-managed and efficient government operations
Total Planned Spending		1,834	1,834	1,834	

Expenditure Profile

Departmental Spending Trend



During its first four years of operations, the Registry spent at most 50% of its authorities because the Tribunal has not dealt with any cases from its inception in 2007 until it received its first application for a hearing in May 2011. However, the Registry is expecting a significant increase in expenditures for 2011-2012 and 2012-2013 for the following reasons: (1) the Tribunal received its first two applications for hearings in 2011-2012 and expects to receive others in the coming months and years; (2) the new priorities established by the Tribunal require specialized skills and knowledge; and (3) the reporting burden imposed by central organizations continues to increase from year to year. The Registry has filled four additional positions in the past months to manage the increased workload and meet the Tribunal's needs and expectations more effectively. Although it is very difficult to predict the number of complaints the office of the Public Sector Integrity will refer to the Tribunal and, consequently, to assess the human and financial resource requirements to continue to support the Tribunal in carrying out its mandate, the Registry plans to spend its entire funding allocation in 2012-2013 and subsequent years.

Estimates by Vote

For information on our organizational appropriations, please see the 2012–13 Main Estimates publication.

Section II: Analysis of Program Activities by Strategic Outcome

Strategic Outcome

Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.

Program Activity: Reprisal Hearings Program

As the Registry was granted an exemption to report separately on its internal services, it will report globally on its single program activity.

Program Activity Description

The Reprisal hearing program provides for the effective management of the processes related to reprisal complaints and Tribunal hearings. Through this program, the Registry also provides legal and administrative support to the Tribunal.

Financial Resources (in thousands of dollars)

2012–13	2013–14	2014–15
1,834	1,834	1,834

Human Resources (Full-Time Equivalent—FTE)

2012–13	2013–14	2014–15
12	12	12

Program Activity Expected Results	Performance Indicators	Targets
Efficient management of the Tribunal's proceedings.	Number of decisions or orders issued within 250 calendar days from the start of a proceeding.	90% of proceedings are completed within 250 calendar days.
	Degree of client satisfaction with respect to services offered by the Registry.	80% of clients are satisfied with services offered by the Registry.

Section III: Supplementary Information

Financial Highlights

Future-Oriented
Condensed Statement of Operations
For the Year (ended March 31)
(in dollars)

	$ Change	Future-Oriented 2012-13	Future-Oriented 2011-12
Total Expenses	733,566	2,250,169	1,516,603
Total Revenues		-	-
Net Cost of Operations	733,566	2,250,169	1,516,603

Condensed Statement of Financial Position
For the Year (ended March 31)
(in dollars)

	$ Change	Future-Oriented 2012-13	Future-Oriented 2011-12
Total assets	(125,808)	246,297	372,104
Total liabilities	(31,132)	276,993	308,125
Equity	(94,695)	(30,696)	63,979
Total	(125,808)	246,297	372,104

The substantial increase in expenses in 2011-2012 and 2012-2013 is due mainly to the staffing of 4 positions during 2011-2012 to manage the increased workload.

Future-Oriented Financial Statements

The future-oriented financial statements are available on the website of the Public Servants Disclosure Protection Tribunal Canada.

List of Supplementary Information Tables

The following electronic supplementary information table found in the *2012–13 Reports on Plans and Priorities* can be found on the Treasury Board of Canada Secretariat website.

- Greening Government Operations.

Section IV: Other Items of Interest

Organizational Contact Information

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